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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/735,335
Filing Date: December 11, 2000
Appellant(s): ROSS, PAUL C.

MAILED

JAN 24 2008

GROUP 3600

Peter Priest
Reg. No. 30,210
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/31/2007 appealing from the Office action mailed 11/13/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

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(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Ernst et al. (US 5,636,245)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-4, 6-9, 11-12, 14-15, 17-21, and 23-27 are rejected under 35**

U.S.C. 102(b) as being anticipated by Ernst et al. (US 5,636,245).

3. As per **independent Claims 1 and 6**, Ernst discloses a method [telecommunications terminal] of operating a telecommunications terminal, said method comprising:
receiving a plurality of geographically-sensitive messages (C1 L61-67, C2 L1-24, C2 L59-62) broadcasted to a plurality of telecommunication terminals (C3 L41-45, plurality of remote units), and the plurality of geographically-sensitive messages having associated geographic locations of relevance and priorities (C3 L10-30,

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Incorporation unit, messages provided based on saved event tags; C3 L65-67, C1 L1-4, Pre-designated event specific tags entered at criteria selection unit – priority would be on the list or not on the list); ascertaining a geographic location of said telecommunications terminal (C3 L31-45, remote unit); determining a geographic region of interest of said telecommunications terminal based on said geographic location of said telecommunications terminal; determining whether the geographic location of relevance are within [overlapping] said geographic region of interest of said telecommunications terminal; filtering out the geographically-sensitive messages whose associated geographic locations of relevance are not within said geographic region of interest of said telecommunications terminal; and ordering the unfiltered geographically-sensitive messages according to their associated priorities. (C3 L46-65, Matching Processor, process and disseminate information; C3 L65-67, C1 L1-4, Pre-designated event specific tags entered at criteria selection unit – priority would be on the list or not on the list; C3 L19-24, incorporation unit provides messages based on position and time of effectiveness).

4. As per Claims 2 and 7, Ernst discloses wherein said telecommunication terminal is mobile; and wherein said geographic region of interest is based on said geographic location of said telecommunications terminal and on a direction of motion of said telecommunications terminal (C3 L31-65, Direction of motion is a product of position, velocity and time).
5. As per Claims 3 and 8, Ernst discloses wherein said telecommunication terminal is mobile; and wherein said geographic region of interest is based on said geographic

location of said telecommunications terminal and on a speed of said telecommunications terminal (Claim 6).

6. As per Claims 4 and 9, Ernst discloses wherein said geographic region of interest is based on the associated priority of said geographically-sensitive message (C3 L37-45, event specific tags – prioritizing events/messages; Claims 17-18, changing region of influence).
7. As per **independent Claims 17, and 23**, Ernst discloses a method [telecommunications terminal] of operating a telecommunications terminal, said method comprising: receiving a first message having a definition of a geographic region of relevance and an associated indicium of the geographic region of relevance (C3 10-30); receiving a plurality of broadcasted geographically-sensitive messages (C1 L61-67, C2 L1-24, C2 L59-62) having associated indicia of geographic regions of relevance (C3 10-30, Incorporation unit, Time information, and Event Specific Tag); ascertaining a geographic location of said telecommunications terminal (C3 L31-45, remote unit); determining geographic regions of relevance from the associated indicia supplied in the plurality of broadcasted geographically-sensitive messages (C3 10-30); determining a geographic region of interest of said telecommunications terminal based on said geographic location of said telecommunications terminal; determining whether the geographic location of relevance overlap said geographic region of interest of said telecommunications terminal; filtering out the broadcasted geographically-sensitive messages whose associated determined geographic regions of relevance fail to overlap said geographic

region of interest of said telecommunications terminal (C3 L46-65, Matching Processor, process and disseminate information).

8. As per Claims 18 and 24, Ernst discloses wherein said telecommunication terminal is mobile; and wherein said geographic region of interest is based on said geographic location of said telecommunications terminal and on a direction of motion of said telecommunications terminal (C3 L31-65, Direction of motion is a product of position, velocity and time).
9. As per Claims 19 and 25, Ernst discloses wherein said receiver is also for receiving a definition of said geographic region of relevance, and further comprising a memory for storing said definition of said geographic region of relevance and an indicium of said geographic region of relevance as an index into said memory (C3 L46-65, Matching Processor; Claim 1 and Claim 17, Regions of interest/region of influence).
10. As per Claims 20 and 26, Ernst discloses wherein said telecommunication terminal is mobile; and wherein said geographic region of interest is based on said geographic location of said telecommunications terminal and on a speed of said telecommunications terminal (See Claim 6).
11. As per Claims 21 and 27, Ernst discloses wherein said geographic region of interest is based on the associated priority of said geographically-sensitive message (C3 L37-45, event specific tags – prioritizing events/messages; Claims 17-18, changing region of influence).
12. As per **independent Claims 11 and 14**, Ernst discloses a method
[telecommunications terminal] of operating a telecommunications terminal to filter

geographically-sensitive messages which are broadcasted to a plurality of telecommunication terminals (Abstract; C3 L41-45, plurality of remote units), said method comprising: receiving a first message having a definition of a geographic region of relevance and an associated indicium of the geographic region (C3 10-30); receiving a plurality of broadcasted geographically-sensitive messages having associated indicia of a geographic region of relevance (C3 10-30, Incorporation unit, Time information, and Event Specific Tag); ascertaining a geographic location of said telecommunications terminal; determining a geographic region of relevance from the associated indicium supplied in a broadcasted geographically-sensitive message (C3 10-30); and determining whether said geographic location of said telecommunications terminal is within the determined geographic region of relevance; and disregarding the broadcasted geographically-sensitive messages when said geographic location of said telecommunications terminal is not within the determined geographic region of relevance (Claim1; C3 L46-65, Matching Processor, process and disseminate information).

13. As per Claims 12 and 15, Ernst discloses receiving a definition of each geographic region of relevance and an indicium of said geographic region of relevance before receiving said geographically-sensitive message; and storing said definition of said geographic region of relevance into memory with said indicium of said geographic region of relevance as an index into said memory (C3 L46-65, Matching Processor; Claim 1 and Claim 17, Regions of interest/region of influence).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 5, 10, 13, 16, 22 and 28 are rejected under 35 U.S.C. 103 as being unpatentable over Ernst.

16. As per Claims 5, 10, 13, 16, 22 and 28, Ernst does not expressly show wherein said geographic region of interest comprises at least one of a polygon and a conic section.

17. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The telecommunications terminal operating system would be performed regardless of the shape of geographic region of interest used. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

18. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a geographic region of interest in a shape comprising at least one of a polygon and a conic section, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

(10) Response to Argument

19. The Appellant has made the argument that the cited prior art fails to disclose a broadcasted message having a priority and ordering the unfiltered messages according to that priority as claimed.
20. However, priority (as claimed) is in a format of interest; in other words, messages having priority could be messages on a list of interest, and therefore provided to the user.
21. Furthermore, Ernst discloses storing selection criteria (position, time, velocity, and manually entered data of interest) received from the user (abstract), and providing messages to users based on the saved criteria (C3 L33-41).
22. Finally, Ernst also providing messages to users based on defined position, velocity, and time of effectiveness (C L17-26).
23. The Appellant has also made the argument that the cited prior art fails to teach or disclose receiving a geographic region of interest and a geographic region of relevance, and matching messages to users based on these two regions overlapping.
24. However, Ernst does disclose receiving regions of relevance (C3 L20-37, incorporation unit, navigational system information, and other selection criteria information) and receiving region of interest information (C3 L36-65, selection criteria information, event tags, stored regions of interest), and matching messages for users based on the received/saved information (C3 L45-65, Matching processor)
25. The Appellant has also made the argument that the cited prior art fails to disclose the particular selection criteria for determining whether a broadcast message should be

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filtered out.

26. However, Ernst discloses filtering-out messages to users based on a criteria selection input of remote unit positions (geographic regions), velocities, and times (C3 10-45), as disclosed by the independent claims.

27. Finally, the Appellant has made the argument that area type of said geographic region of interest is functional descriptive material.

28. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The telecommunications terminal operating system would be performed regardless of the shape of geographic region of interest used. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

29. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a geographic region of interest in a shape comprising at least one of a polygon and a conic section, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

(11) Related Proceeding(s) Appendix


No decision rendered by a court or the Board is identified by the Examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jonathan Ouellette

January 19, 2008


JONATHAN OUELLETTE
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Conferees:

John Weiss

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